

## SENATE BILL NO. 86

INTRODUCED BY J. TROPILA

BY REQUEST OF THE DEPARTMENT OF JUSTICE

A BILL FOR AN ACT ENTITLED: "AN ACT GENERALLY REVISING GAMBLING LAWS; REVISING DEFINITIONS; REQUIRING THE SUBMISSION OF FINGERPRINTS FOR THE PURPOSE OF CRIMINAL BACKGROUND CHECKS BY LICENSE APPLICANTS; PROVIDING FOR A LICENSE FOR ASSOCIATED GAMBLING BUSINESSES; REQUIRING APPROVAL OF CERTAIN BINGO CARDS; REMOVING CERTAIN RESTRICTIONS ON RAFFLE PRIZES; AMENDING SECTIONS 23-5-112, 23-5-115, 23-5-157, 23-5-324, 23-5-412, 23-5-413, AND 23-5-621, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE AND AN APPLICABILITY DATE."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

**Section 1.** Section 23-5-112, MCA, is amended to read:

**"23-5-112. Definitions.** Unless the context requires otherwise, the following definitions apply to parts 1 through 8 of this chapter:

(1) "Applicant" means a person who has applied for a license or permit issued by the department pursuant to parts 1 through 8 of this chapter.

(2) "Application" means a written request for a license or permit issued by the department. The department shall adopt rules describing the forms and information required for issuance of a license.

(3) "Associated gambling business" means a person who provides a service or product to a licensed gambling business and who:

(a) has a reason to possess or maintain control over gambling devices;

(b) has access to proprietary information or gambling tax information; or

(c) is a party in processing gambling transactions.

~~(3)~~(4) "Authorized equipment" means, with respect to live keno or bingo, equipment that may be inspected by the department and that randomly selects the numbers.

~~(4)~~(5) "Bingo" means a gambling activity played for prizes with a card bearing a printed design of 5 columns of 5 squares each, 25 squares in all. The letters B-I-N-G-O must appear above the design, with each

1 letter above one of the columns. More than 75 numbers may not be used. One ~~number must~~ or more numbers  
2 may appear in each square, except for the center square, which may be considered a free play. Numbers ~~are~~  
3 must be randomly drawn using authorized equipment until the game is won by the person or persons who first  
4 cover one or more previously designated arrangements of numbers on the bingo card.

5 ~~(5)(6)~~ "Bingo caller" means a person 18 years of age or older who, using authorized equipment,  
6 announces the order of the numbers drawn in live bingo.

7 ~~(6)(7)~~ "Card game table" or "table" means a live card game table:

8 (a) authorized by permit and made available to the public on the premises of a licensed gambling  
9 operator; or

10 (b) operated by a senior citizen center.

11 ~~(7)(8)~~ "Card game tournament" means a gambling activity for which a permit has been issued involving  
12 participants who pay valuable consideration for the opportunity to compete against each other in a series of live  
13 card games conducted over a designated period of time.

14 ~~(8)(9)~~ "Dealer" means a person with a dealer's license issued under part 3 of this chapter.

15 ~~(9)(10)~~ "Department" means the department of justice.

16 ~~(10)(11)~~ "Distributor" means a person who:

17 (a) purchases or obtains from a licensed manufacturer, distributor, or route operator equipment of any  
18 kind for use in gambling activities; and

19 (b) sells the equipment to a licensed distributor, route operator, or operator.

20 ~~(11)(12)~~ (a) "Gambling" or "gambling activity" means risking any money, credit, deposit, check, property,  
21 or other thing of value for a gain that is contingent in whole or in part upon lot, chance, or the operation of a  
22 gambling device or gambling enterprise.

23 (b) The term does not mean conducting or participating in a promotional game of chance and does not  
24 include amusement games regulated by Title 23, chapter 6, part 1.

25 (c) The term does not include social card games played solely for prizes of minimal value, defined as  
26 class I gaming by 25 U.S.C. 2703.

27 ~~(12)(13)~~ "Gambling device" means a mechanical, electromechanical, or electronic device, machine, slot  
28 machine, instrument, apparatus, contrivance, scheme, or system used or intended for use in any gambling  
29 activity.

30 ~~(13)(14)~~ "Gambling enterprise" means an activity, scheme, or agreement or an attempted activity,

1 scheme, or agreement to provide gambling or a gambling device to the public.

2 ~~(14)~~(15) (a) "Gift enterprise" means a gambling activity in which persons have qualified to obtain property  
3 to be awarded by purchasing or agreeing to purchase goods or services.

4 (b) The term does not mean:

5 (i) a cash or merchandise attendance prize or premium that county fair commissioners of agricultural  
6 fairs and rodeo associations may give away at public drawings at fairs and rodeos;

7 (ii) a promotional game of chance; or

8 (iii) an amusement game regulated under Title 23, chapter 6.

9 ~~(15)~~(16) "Gross proceeds" means gross revenue received less prizes paid out.

10 ~~(16)~~(17) "House player" means a person participating in a card game who has a financial relationship  
11 with the operator, card room contractor, or dealer or who has received money or chips from the operator, card  
12 room contractor, or dealer to participate in a card game.

13 ~~(17)~~(18) "Illegal gambling device" means a gambling device not specifically authorized by statute or by  
14 the rules of the department. The term includes:

15 (a) a ticket or card, by whatever name known, containing concealed numbers or symbols that may match  
16 numbers or symbols designated in advance as prize winners, including a pull tab, punchboard, push card, tip  
17 board, pickle ticket, break-open, or jar game, except for one used under Title 23, chapter 7, or under part 5 of this  
18 chapter or in a promotional game of chance approved by the department; and

19 (b) an apparatus, implement, or device, by whatever name known, specifically designed to be used in  
20 conducting an illegal gambling enterprise, including a faro box, faro layout, roulette wheel, roulette table, craps  
21 table, or slot machine, except as provided in 23-5-153.

22 ~~(18)~~(19) "Illegal gambling enterprise" means a gambling enterprise that violates or is not specifically  
23 authorized by a statute or a rule of the department. The term includes:

24 (a) a card game, by whatever name known, involving any bank or fund from which a participant may win  
25 money or other consideration and that receives money or other consideration lost by the participant and includes  
26 the card games of blackjack, twenty-one, jacks or better, baccarat, or chemin de fer;

27 (b) a dice game, by whatever name known, in which a participant wagers on the outcome of the roll of  
28 one or more dice, including craps, hazard, or chuck-a-luck, but not including activities authorized by 23-5-160;

29 (c) sports betting, by whatever name known, in which a person places a wager on the outcome of an  
30 athletic event, including bookmaking, parlay bets, or sultan sports cards, but not including those activities

1 authorized in Title 23, chapter 4, and parts 2, 5, and 8 of this chapter;

2 (d) credit gambling; and

3 (e) internet gambling.

4 ~~(19)(20)~~ (a) "Internet gambling", by whatever name known, includes but is not limited to the conduct of  
5 any legal or illegal gambling enterprise through the use of communications technology that allows a person using  
6 money, paper checks, electronic checks, electronic transfers of money, credit cards, debit cards, or any other  
7 instrumentality to transmit to a computer information to assist in the placing of a bet or wager and corresponding  
8 information related to the display of the game, game outcomes, or other similar information.

9 (b) The term does not include the operation of a simulcast facility or advance deposit wagering with a  
10 licensed advance deposit wagering hub operator allowed by Title 23, chapter 4, or the state lottery provided for  
11 in Title 23, chapter 7. If all aspects of the gaming are conducted on Indian lands in conformity with federal statutes  
12 and with administrative regulations of the national Indian gaming commission, the term does not include class  
13 II gaming or class III gaming as defined by 25 U.S.C. 2703.

14 ~~(20)(21)~~ "Keno" means a game of chance in which prizes are awarded using a card with 8 horizontal rows  
15 and 10 columns on which a player may pick up to 10 numbers. A keno caller, using authorized equipment, shall  
16 select at random at least 20 numbers out of numbers between 1 and 80, inclusive.

17 ~~(21)(22)~~ "Keno caller" means a person 18 years of age or older who, using authorized equipment,  
18 announces the order of the numbers drawn in live keno.

19 ~~(22)(23)~~ "License" means a license for an operator, dealer, card room contractor, manufacturer of devices  
20 not legal in Montana, sports tab game seller, manufacturer of electronic live bingo or keno equipment, other  
21 manufacturer, distributor, or route operator that is issued to a person by the department.

22 ~~(23)(24)~~ "Licensee" means a person who has received a license from the department.

23 ~~(24)(25)~~ "Live card game" or "card game" means a card game that is played in public between persons  
24 on the premises of a licensed gambling operator or in a senior citizen center.

25 ~~(25)(26)~~ (a) "Lottery" means a scheme, by whatever name known, for the disposal or distribution of  
26 property among persons who have paid or promised to pay valuable consideration for the chance of obtaining  
27 the property or a portion of it or for a share or interest in the property upon an agreement, understanding, or  
28 expectation that it is to be distributed or disposed of by lot or chance.

29 (b) The term does not mean lotteries authorized under Title 23, chapter 7.

30 ~~(26)(27)~~ "Manufacturer" means a person who:

(a) assembles from raw materials or subparts a completed piece of equipment or pieces of equipment of any kind to be used as a gambling device and who sells the equipment directly to a licensed distributor, route operator, or operator; or

(b) possesses gambling devices or components of gambling devices for the purpose of testing them.

~~(27)~~(28) "Nonprofit organization" means a nonprofit corporation or nonprofit charitable, religious, scholastic, educational, veterans', fraternal, beneficial, civic, senior citizens', or service organization established for purposes other than to conduct a gambling activity to support charitable activities, scholarships or educational grants, or community service projects.

~~(28)~~(29) "Operator" means a person who purchases, receives, or acquires, by lease or otherwise, and operates or controls for use in public a gambling device or gambling enterprise authorized under parts 1 through 8 of this chapter.

~~(29)~~(30) "Permit" means approval from the department to make available for public play a gambling device or gambling enterprise approved by the department pursuant to parts 1 through 8 of this chapter.

~~(30)~~(31) "Person" or "persons" means both natural and artificial persons and all partnerships, corporations, associations, clubs, fraternal orders, and societies, including religious and charitable organizations.

~~(31)~~(32) "Premises" means the physical building or property within or upon which a licensed gambling activity occurs, as stated on an operator's license application and approved by the department.

~~(32)~~(33) "Promotional game of chance" means a scheme, by whatever name known, for the disposal or distribution of property among persons who have not paid or are not expected to pay any valuable consideration or who have not purchased or are not expected to purchase any goods or services for a chance to obtain the property, a portion of it, or a share in it. The property is disposed of or distributed by simulating a gambling enterprise authorized by parts 1 through 8 of this chapter or by operating a device or enterprise approved by the department that was manufactured or intended for use for purposes other than gambling.

~~(33)~~(34) "Public gambling" means gambling conducted in:

(a) a place, building, or conveyance to which the public has access or may be permitted to have access;

(b) a place of public resort, including but not limited to a facility owned, managed, or operated by a partnership, corporation, association, club, fraternal order, or society, including a religious or charitable organization; or

(c) a place, building, or conveyance to which the public does not have access if players are publicly solicited or the gambling activity is conducted in a predominantly commercial manner.

~~(34)~~(35) "Raffle" means a form of lottery in which each participant pays valuable consideration for a ticket to become eligible to win a prize. Winners must be determined by a random selection process approved by department rule.

~~(35)~~(36) "Route operator" means a person who:

(a) purchases from a licensed manufacturer, route operator, or distributor equipment of any kind for use in a gambling activity;

(b) leases the equipment to a licensed operator for use by the public; and

(c) may sell to a licensed operator equipment that had previously been authorized to be operated on a premises.

~~(36)~~(37) "Senior citizen center" means a facility operated by a nonprofit or governmental organization that provides services to senior citizens in the form of daytime or evening educational or recreational activities and does not provide living accommodations to senior citizens. Services qualifying under this definition must be recognized in the state plan on aging adopted by the department of public health and human services.

~~(37)~~(38) (a) "Slot machine" means a mechanical, electrical, electronic, or other gambling device, contrivance, or machine that, upon insertion of a coin, currency, token, credit card, or similar object or upon payment of any valuable consideration, is available to play or operate, the play or operation of which, whether by reason of the skill of the operator or application of the element of chance, or both, may deliver or entitle the person playing or operating the gambling device to receive cash, premiums, merchandise, tokens, or anything of value, whether the payoff is made automatically from the machine or in any other manner.

(b) This definition does not apply to video gambling machines authorized under part 6 of this chapter.

~~(38)~~(39) "Video gambling machine" is a gambling device specifically authorized by part 6 of this chapter and the rules of the department."

**Section 2.** Section 23-5-115, MCA, is amended to read:

**"23-5-115. Powers and duties of department -- licensing.** (1) The department shall administer the provisions of parts 1 through 8 of this chapter.

(2) The department shall adopt rules to administer and implement parts 1 through 8 of this chapter.

(3) The department shall provide licensing procedures, prescribe necessary application forms, and grant or deny license applications.

(4) The department shall, as a prerequisite to the issuance of a license pursuant to the authority

1 contained in this chapter, require the applicant to submit fingerprints for the purpose of a criminal background  
2 investigation by the department and the federal bureau of investigation.

3 (5) The applicant shall sign a release of information to the department and is responsible to the  
4 department for the payment of all fees associated with the criminal background check.

5 ~~(4)~~(6) The department shall prescribe recordkeeping requirements for licensees, provide a procedure  
6 for inspection of records, provide a method for collection of taxes, and establish penalties for the delinquent  
7 reporting and payment of required taxes.

8 ~~(5)~~(7) The department may suspend, revoke, deny, or place a condition on a license issued under parts  
9 1 through 8 of this chapter.

10 ~~(6)~~(8) The department may not make public or otherwise disclose confidential criminal justice  
11 information, as defined in 44-5-103, information obtained in the tax reporting processes, personal information  
12 protected by an individual privacy interest, or trade secrets, as defined in 30-14-402, specifically identified and  
13 for which there are reasonable grounds of privilege asserted by the party claiming the privilege.

14 ~~(7)~~(9) The department shall assess, collect, and disburse any fees, taxes, or charges authorized under  
15 parts 1 through 8 of this chapter."  
16

17 **Section 3.** Section 23-5-157, MCA, is amended to read:

18 **"23-5-157. Gambling on cash basis -- penalties.** (1) (a) In every gambling activity, except raffles as  
19 authorized in 23-5-413 and card games authorized in part 3 of this chapter and normally scored using points, the  
20 consideration paid for the chance to play must be made in cash. A check or ~~credit~~ debit card may be used to  
21 obtain cash to participate in a gambling activity. A participant shall present the cash needed to play the game as  
22 the game is being played. If a check or ~~credit~~ debit card is used to obtain cash on the premises of a licensee then  
23 it must be delivered and accepted unconditionally. A licensee or employee of a licensee may not hold a check  
24 or other evidence of indebtedness for redemption pending the outcome of a gambling activity.

25 (b) Credit gambling is prohibited. Credit gambling is offering or accepting as part of the price of  
26 participation in a gambling activity or as payment of a debt incurred in a gambling activity:

27 (i) a check, ~~or credit card,~~ or debit card held pending the outcome of a gambling activity;

28 (ii) a loan of any kind at any time from or on behalf of a licensee;

29 (iii) any form of deferred payment, including a note, IOU, post-dated check, hold check, or other evidence  
30 of indebtedness; or

(iv) a check issued or delivered that is accepted by the licensee with the knowledge that it will not be paid by the depository.

(2) A person who violates this section is guilty of a criminal offense under 23-5-156 and must be punished in accordance with 23-5-161 or 23-5-162."

**Section 4.** Section 23-5-324, MCA, is amended to read:

**"23-5-324. Card room contractor's license -- fee -- submission of contract.** (1) It is a misdemeanor for a person to enter into a contract with a licensed operator to operate one or more live card game tables on the operator's premises without obtaining a card room contractor's license from the department.

(2) The department shall charge an annual license fee of \$150 for issuing or renewing a card room contractor's license. The department shall retain the fee for administrative purposes.

(3) The applicant shall submit at the time of application for a card room contractor's license a copy of ~~the a proposed lease~~ agreement entered into with ~~the a~~ licensed operator."

**Section 5.** Section 23-5-412, MCA, is amended to read:

**"23-5-412. Card prices and prizes -- exception.** (1) Except as provided in subsection (3):

(a) the price for an individual bingo or keno card may not exceed 50 cents;

(b) a prize may not exceed the value of \$100 for each individual bingo game or keno card; and

(c) it is unlawful to, in any manner, combine any bingo or keno games so as to increase the ultimate value of the prize.

(2) Bingo and keno prizes may be paid in either tangible personal property or cash.

(3) (a) A variation of the game of keno, as approved by the department, in which a player selects three or more numbers and places a wager on various combinations of these numbers is permissible if:

(i) no more than 50 cents is wagered on each combination of numbers; and

(ii) a winning combination does not pay more than \$100.

(b) A variation of the game of bingo, as approved by the department, in which prizes may be awarded for each winning bingo pattern on a card is permissible if:

(i) no more than 50 cents is wagered on each bingo pattern; and

(ii) a winning pattern does not pay more than \$100.

(4) Any bingo card other than a standard card with 5 columns and 25 squares with 1 number appearing



in each square or any card that allows the player to print numbers on the card must be approved by the department prior to being offered for play.

~~(4)~~(5) A player may give a keno caller a card with instructions on the card to play that card and its marked numbers for up to the number of successive games that the house allows and that the player has indicated on the card, upon payment of the price per game times the number of successive games indicated. The player shall remain on the house premises until the card is played or withdrawn. The caller shall keep the card until the end of the number of games indicated, and the department may by rule provide that at that time the caller shall pay the player any prizes won.

~~(5)~~(6) If a licensed operator conducts a promotional game of chance involving bingo or keno, the prize limit provided for in subsection (1) applies to prizes awarded as a result of the promotional game of chance."

**Section 6.** Section 23-5-413, MCA, is amended to read:

**"23-5-413. Raffle prizes ~~--permits--exceptions--investigations--rulemaking.~~** (1) (a) ~~Except as provided in subsections (1)(b) and (1)(c), a permit must be issued by the board of county commissioners for each raffle conducted within its jurisdiction. The permit must be issued before the raffle may be conducted. The~~ department shall investigate all violations of this part.

~~(b) If tickets for a raffle are to be sold in more than one county, a permit must be obtained only in the county where the winners of the raffle are to be determined. The department may adopt rules to require recordkeeping for receipts and payouts under this part and to establish procedures to ensure the fair selection of winners.~~

~~(c) If a raffle is to be conducted by a religious corporation sole or a nonprofit organization, as defined in 23-5-112, a county permit is not required.~~

(2) ~~(a) Except for a religious corporation sole or a nonprofit organization, a~~ A person or organization conducting a raffle shall own all prizes to be awarded as part of the raffle before the sale of any tickets.

~~(b) The value of a prize awarded for an individual ticket for a raffle conducted by a person or an organization may not exceed \$5,000. Prizes may not be combined in any manner to increase the ultimate value of the prize awarded for each ticket.~~

~~(c) The provisions of subsections (2)(a) and (2)(b) do not apply to a nonprofit organization, a college, a university, a public school district as provided in 20-6-101 and 20-6-701, or a nonpublic school as described in 20-5-102(2)(e). The proceeds from the sale of tickets for a raffle conducted by a nonprofit organization, college,~~

1 university, or school district may be used only for charitable purposes or to pay for prizes and may not be used  
2 for the administrative costs of conducting the raffle.

3 ~~(3) A person who has conducted a raffle must submit an accounting to the board of county~~  
4 ~~commissioners within 30 days following the completion of the raffle.~~

5 ~~(4)(3) (a)~~ The sale of raffle tickets authorized by this part is restricted to events and participants within  
6 the geographic confines of the state.

7 (b) The sale of raffle tickets may not be conducted over the internet. All raffle announcements or  
8 advertisements conducted over the internet must include this sale restriction, the name of the organization  
9 offering the raffle, and all raffle terms.

10 ~~(5) The value of a prize awarded for an individual ticket for a raffle conducted by a person or an~~  
11 ~~organization, other than a religious corporation sole or a nonprofit organization, may not exceed \$5,000. The prize~~  
12 ~~may be in the form of cash, other intangible personal property, tangible personal property, or real property. Prizes~~  
13 ~~may not be combined in any manner to increase the ultimate value of the prize awarded for each ticket.~~

14 ~~—— (6) (a) A religious corporation sole or a nonprofit organization shall comply with the requirements in~~  
15 ~~subsections (3) and (4).~~

16 ~~—— (b) The proceeds from the sale of tickets for a raffle conducted by a religious corporation sole or a~~  
17 ~~nonprofit organization may be used only for charitable purposes or to pay for prizes. Proceeds may not be used~~  
18 ~~for the administrative cost of conducting the raffle.~~

19 ~~—— (c) (i) The value of a prize awarded for an individual ticket for a raffle conducted by a religious corporation~~  
20 ~~sole or a nonprofit organization may equal or exceed \$5,000 if the prize is in the form of:~~

21 ~~—— (A) tangible personal property; or~~

22 ~~—— (B) real property the fair market value of which has been certified in writing by an appraiser licensed~~  
23 ~~under 37-54-201.~~

24 ~~—— (ii) If the value of the prize is less than \$5,000, the prize may be in the form of cash, other intangible~~  
25 ~~personal property, tangible personal property, or real property."~~

26  
27 **Section 7.** Section 23-5-621, MCA, is amended to read:

28 **"23-5-621. Rules.** (1) The department shall adopt rules that:

29 (a) implement 23-5-637;

30 (b) describe the video gambling machines authorized by this part and state the specifications for video

1 gambling machines authorized by this part, including a description of the images and the minimum area of a  
2 screen that depicts a bingo, poker, or keno game;

3 (c) allow video gambling machines to be imported into this state and used for the purposes of trade  
4 shows, exhibitions, and similar activities;

5 (d) allow each video gambling machine to offer any combination of approved poker, keno, and bingo  
6 games within the same video gambling machine cabinet if the owner of the video gambling machine has received  
7 approval to report video gambling machine information utilizing an approved automated accounting and reporting  
8 system or has entered into an agreement with the department to utilize an approved automated accounting and  
9 reporting system;

10 (e) allow, on an individual license basis, licensed machine owners and operators of machines that utilize  
11 an approved automated accounting and reporting system to:

12 (i) electronically acquire and use for an individual licensed premises the information and data collected  
13 for business management, accounting, and payroll purposes; however, the rules must specify that the data made  
14 available as a result of an approved automated accounting and reporting system may not be used by licensees  
15 for player tracking purposes; and

16 (ii) acquire and use, at the expense of a licensee, a department-approved site controller;

17 (f) minimize, whenever possible, the recordkeeping and retention requirements for video gambling  
18 machines that utilize an approved automated accounting and reporting system.

19 (2) The department's rules for an approved automated accounting and reporting system must, at a  
20 minimum:

21 (a) provide for confidentiality of information received through the approved automated accounting and  
22 reporting system within the limits prescribed by ~~23-5-115(6)~~ 23-5-115(8) and 23-5-116;

23 (b) prescribe specifications for maintaining the security and integrity of the approved automated  
24 accounting and reporting system;

25 (c) limit and prescribe the circumstances for electronic issuance of video gambling machine permits and  
26 electronic transfer of funds for payment of taxes, fees, or penalties to the department;

27 (d) describe specifications and a review and testing process for approved automated accounting and  
28 reporting systems to be utilized by licensed operators, including the requirements for electronically captured data;  
29 and

30 (e) prescribe the frequency of reporting from an approved automated accounting and reporting system

1 and provide exceptions for geographically isolated video gambling operators."

2  
3 **NEW SECTION. Section 8. Associated gambling business.** (1) The department may adopt rules for  
4 the licensing of associated gambling businesses, including but not limited to accounting software vendors and  
5 video gambling machine recyclers.

6 (2) The licensing of an associated gambling business may consider only the legality of the product being  
7 sold and the suitability of the owners of the business as provided in 23-5-176.

8 (3) The annual fee for an associated gambling business license is \$100.

9  
10 **NEW SECTION. Section 9. Codification instruction.** [Section 8] is intended to be codified as an  
11 integral part of Title 23, chapter 5, part 1, and the provisions of Title 23, chapter 5, part 1, apply to [section 8].

12  
13 **NEW SECTION. Section 10. Effective date.** [This act] is effective on passage and approval.

14  
15 **NEW SECTION. Section 11. Applicability.** [This act] applies to applications for gambling licenses  
16 made on or after [the effective date of this act].

17 - END -